

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID FORD

v.

HYANNIS HARBOR TOURS, INC.

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C.A. No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

Now comes the plaintiff in the above-entitled matter and for his complaint states:

PARTIES

1. The plaintiff David Ford is a resident of the Town of Bourne, in Barnstable County, in the Commonwealth of Massachusetts.

2. The defendant Hyannis Harbor Tours, Inc. is a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and having a principal place of business at 22 Channel Point Road, in the Village of Hyannis, Town of Barnstable, Barnstable County, in the Commonwealth of Massachusetts.

JURISDICTION

3. This Court has subject matter jurisdiction over this matter pursuant to The Merchant Marine Act of 1920, commonly called the Jones Act, 46 U.S.C. § 30104, *et. seq.*

4. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1333.

FACTS

5. At all times relevant to this action, the defendant has operated a business within the Commonwealth of Massachusetts, providing commercial water transportation upon navigable waters in and around the United States, specifically, the waters around Cape Cod, Massachusetts.

6. Plaintiff David Ford has been employed by defendant Hyannis Harbor Tours, Inc. as a seaman for approximately six years, dating back to 2014, which includes the dates and times relevant to this action.

7. On or about June 4, 2018, while working as a seaman for the defendant on the M/V Lady Martha, the plaintiff was injured in the act of disembarking from the vessel onto a walkway owned and maintained by the defendant, a portion of which collapsed, causing an injury to the plaintiff's left leg.

8. On or about July 30, 2019, while working as a seaman for the defendant on the M/V Lady Martha, the plaintiff was injured while attempting to step down from the vessel, becoming entangled in a cable left adjacent and injuring his right leg.

9. At all times relevant to this action, the defendant Hyannis Harbor Tours, Inc., and/or its defendant's agents, assigns, servants and/or employees operated, maintained, and controlled the M/V Lady Martha and all property upon which the facts of this complaint are based.

10. The plaintiff sustained these injuries in the course of his employment as a seaman with the defendant and as a consequence of the defendant's negligence and creation of conditions that rendered the vessel unsafe and unseaworthy.

11. Prior to and at the time he sustained the above-mentioned personal injuries, the plaintiff David Ford was exercising due care.

COUNT I
Hyannis Harbor Tours, Inc.
(JONES ACT NEGLIGENCE)

1. The plaintiff David Ford reiterates the allegations set forth in Paragraphs 1 through 12 above.

2. The personal injuries sustained by the plaintiff David Ford were not caused by any fault on his part but were caused by the negligence of the defendant, its agents, assigns, servants and/or employees.

3. As a result of said injuries, the plaintiff David Ford has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses and has sustained and will sustain other damages as will be shown at trial.

4. This cause of action is brought under the 46 U.S.C. § 30104.

WHEREFORE, this plaintiff David Ford demands judgment against the defendant Hyannis Harbor Tours, Inc. in an amount to be determined by a jury together with interest and costs.

COUNT II
Hyannis Harbor Tours, Inc.
(GENERAL MARITIME LAW – UNSEAWORTHINESS)

1. The plaintiff David Ford reiterates the allegations set forth in Paragraphs 1 through 11 above.

2. The personal injuries sustained by the plaintiff David Ford were due to no fault of his but were caused by the unseaworthy condition of defendant Hyannis Harbor Tours, Inc.'s vessel the M/V Lady Martha.

3. As a result of said injuries, the plaintiff David Ford has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses and has sustained and will sustain other damages as will be shown at trial.

4. This cause of action is brought under the General Maritime Law for Unseaworthiness.

WHEREFORE, this plaintiff David Ford demands judgment against the defendant Hyannis Harbor Tours, Inc. in an amount to be determined by a jury together with interest and costs.

COUNT III
Hyannis Harbor Tours, Inc.
(GENERAL MARITIME LAW – MAINTENANCE and CURE)

1. The plaintiff David Ford reiterates the allegations set forth in Paragraphs 1 through 11 above.

2. As a result of the personal injuries described in Paragraph 9 above, the plaintiff David Ford has incurred and will continue to incur expenses for his maintenance and cure.

3. As a result of the personal injuries described in Paragraph 9 above, the plaintiff David Ford was denied the wages or share due to him for the voyage upon which he was injured.

WHEREFORE, this plaintiff David Ford demands judgment against the defendant Hyannis Harbor Tours, Inc. in an amount to be determined by a jury together with interest and costs.

COUNT IV
Hyannis Harbor Tours, Inc.
**(GENERAL MARITIME LAW/JONES ACT – INTENTIONAL/NEGLIGENT
FAILURE TO PROVIDE MAINTENANCE and CURE)**

1. The plaintiff David Ford reiterates the allegations set forth in Paragraphs 1 through 11 above.

2. As a result of the personal injuries described in Paragraph 9 above, the plaintiff David Ford has incurred and will continue to incur expenses for his maintenance and cure.

3. The plaintiff David Ford has made demand upon the defendant Hyannis Harbor Tours, Inc. for the provision of maintenance and cure.

4. The defendant Hyannis Harbor Tours, Inc. has negligently, willfully, arbitrarily, and/or unreasonably failed to provide the plaintiff with maintenance and cure in a timely and adequate manner.

5. As a result of the defendant's failure to provide plaintiff maintenance and cure, the plaintiff has sustained and will continue so sustain damages, including, without limitation, pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, this plaintiff David Ford demands judgment against the defendant Hyannis Harbor Tours, Inc. in an amount to be determined by a jury together with interest and costs.

Plaintiff,
By his Attorneys,

/s/ Amato A. DeLuca
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Dated: March 11, 2020

**PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES
RAISED IN COUNTS I, II, III AND IV AND
DESIGNATE AMATO A. DeLUCA AS TRIAL COUNSEL**